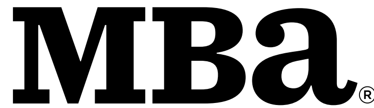

MORTGAGE BANKERS ASSOCIATION

August 28, 2025

The Honorable French Hill Chairman Committee on Financial Services U.S. House of Representatives 2134 Rayburn House Office Building Washington, DC 20515	The Honorable Maxine Waters Ranking Member Committee on Financial Services U.S. House of Representatives 2221 Rayburn House Office Building Washington, DC 20515

Re: RFI on the Gramm-Leach-Bliley Act

Dear Chairman Hill and Ranking Member Waters:

The Mortgage Bankers Association (MBA)[1] welcomes the opportunity to comment on the House Financial Services Committee's (HFSC) Request for Information (RFI) on Title V, Subtitle A, of the Gramm-Leach-Bliley Act (GLBA).

MBA commends the Committee for addressing the important topic of data privacy. Our members recognize the collection of consumer information has grown rapidly in recent years. As consumers continue to provide more of their personal information to businesses, the protection of personal privacy and maintaining data security have become increasingly necessary points of emphasis. Rapid innovation requires appropriate education and oversight to ensure consumers are aware of how their information is used.

MBA members remain strong proponents of protecting consumer data and privacy. Maintaining up-to-date data security practices remains a top priority for the mortgage industry. Since the enactment of the GLBA in 1999, financial institutions have adhered to federal guidelines and standards for data privacy and data security. Protecting personal information within this existing regulatory framework helps to allow MBA members to maintain the trust of their customers. Nonetheless, MBA supports further efforts to ensure that no consumer unwittingly exposes themselves to harm by unintentionally providing their personal data to unscrupulous actors. At the same time, our members also want to be careful to avoid preventing the responsible use of data to improve the efficiency of mortgage origination or the operation of the securitization market.

As such, MBA offers the following comments in response to the RFI:

[1] The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 275,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets, to expand homeownership, and to extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of more than 2,000 companies includes all elements of real estate finance: independent mortgage banks, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies, credit unions, and others in the mortgage lending field. For additional information, visit MBA's website: www.mba.org.

Should we consider a preemptive federal GLBA standard or maintain the current GLBA federal floor approach?

Congress should amend the GLBA to preempt all states' privacy laws that affect financial services. With the GLBA, Congress appropriately constructed a privacy and data security regime to provide an effective and successful balance between providing a clear framework for financial institutions and ensuring that consumer financial transactions take place in a safe and secure environment. In particular, the GLBA regime has been carefully structured to ensure compliance with existing laws and regulations, adherence to judicial process, and protection from fraud, illicit finance, money laundering and terrorist financing. Further, GLBA grants federal financial regulators broad authority to adopt necessary regulations to enact these standards, allowing the regulatory regime to adapt over time as privacy concerns evolve.

Under the current GLBA federal floor approach, states may add additional data privacy requirements. Over the last few legislative sessions, states have moved forward with comprehensive changes to their data privacy laws and regulations. Many of these laws apply to a wide swath of industries and are not carefully tailored to the needs of the financial services industry.

Congress should create a preemptive federal GLBA standard. MBA has long supported efforts to create a single data security and privacy standard that sets clear expectations for the industry. In the interim, States have created a patchwork of data privacy requirements that create compliance challenges to the industry without creating meaningful consumer protections. MBA recommends the legislation make clear and explicit that state data privacy laws should be fully preempted.

If GLBA is made a preemptive federal standard, how should it address state laws that only provide for a data-level exemption from their general consumer data privacy laws?

The growing patchwork of state data privacy laws must be replaced by a federal standard, including state laws with an exemption for data subject to the GLBA. In our view, it is critical that the GLBA preempt existing state laws to avoid duplicative and conflicting requirements that will disrupt financial transactions and the financial system. A federal standard will also help provide the transparency needed for consumers to understand their rights and responsibilities. Having a single federal standard will ensure that consumers receive the same data privacy rights regardless of where they may live.

MBA believes that federal preemption of state data privacy laws should include state laws which nonetheless have a GLBA data-level exemption. State laws which exempt data subject to the GLBA have created compliance challenges for our members. Mortgage companies handle vast amounts of consumer data from a variety of sources that are used for a variety of consumer-initiated purposes. However, the scope of data subject to the GLBA is ambiguous and has left financial institutions unsure of their obligations under state law. This essentially leaves financial institutions to comply with state data privacy laws, even if some of the data used is facially exempt. This unnecessarily drives up the cost of regulatory compliance.

How should GLBA relate to other federal consumer data privacy laws, both a potential general data privacy law and current sector-specific laws? Should GLBA "financial institutions" be subject to entity-level or data-level exemptions from these laws?

Any broad data privacy legislation should include a full exemption for entities subject to the GLBA, and the GLBA should remain the single law governing financial institution's data privacy requirements. MBA members support legislation to create a national privacy standard that recognizes the strong data privacy standards already in place for financial institutions under the GLBA. Supervised financial institutions should not be subject to inconsistent or duplicative requirements primarily addressing other types of entities. For your awareness, MBA has sent a letter to the Energy and Commerce Committee expressing this same sentiment.[2]

Should we consider requiring consent to be obtained before collecting certain types of data, such as PIN Numbers and IP addresses?

Congress should not consider requiring consent to be obtained before collecting certain types of data. Lending decisions and the other processes necessary for origination are made using a wide variety of consumer data. Under the Truth in Lending Act (TILA) and the Qualified Mortgage (QM) Rule, many underwriting factors must be considered during origination, and this requires a large amount of data collection. Underwriting requires a significant amount of data, and different data points may be used differently depending on the transaction or financial profile of the individual consumer. For example, to verify income, a standard bundle of information is often collected but may not be all used in every transaction. However, it is impossible to know ahead of time which pieces of data will be relied on in the final decision. Impeding the collection of this necessary data may detrimentally affect the origination process or make it impossible to complete a consumer-requested transaction.

Should we consider requiring consumers be provided with a list of entities receiving their data?

Providing consumers with a list of individual third parties receiving their data will provide limited utility compared to the cost of implementation. The GLBA generally prohibits financial institutions from disclosing financial and other consumer information to third parties without first providing consumers with an opportunity to opt out of such sharing. This provides consumers with sufficient opportunity to prevent their information from being shared with unaffiliated third parties. Furthermore, the ability to share data with third parties is essential to finance mortgage lending. Selling servicing rights and selling mortgage loans that will be securitized in the secondary market are essential components of how lenders acquire capital to lend to more borrowers. The gains on sale or the value of the servicing rights directly impact the price of the loan, providing a hidden "value" to the consumer in the form of lower transaction costs or rates. Burdening this process will create problems with mortgage funding and interrupt lending pipelines that are essential to the market. Interrupting the securitization of mortgages will lead to less affordable opportunities for borrowers.

[2] MBA, et. al., Joint Financial Trades Supplemental Letter to the House Energy & Commerce Committee Request for Information Data Privacy, Aug. 19, 2025, available here.

To balance the cost of compliance while providing appropriate consumer disclosures, Congress may consider only requiring that entities subject to the GLBA provide consumers with a list of the categories of third parties receiving their data. This is consistent with the approach taken by several states.[3] As a way to lower the compliance costs of implementation and to give entities confidence about the scope of their responsibilities, Congress may also consider only requiring entities to disclose the categories of third parties receiving consumer data, rather than any party down the chain which may receive consumer data. Lastly, the entities responsible for providing this information must be clearly defined, such as whether this responsibility falls on entities holding consumer data or only those collecting data. Regardless of direction, Congress should carefully consider whether the information provided to consumers confers a benefit that outweighs the compliance costs of providing that information.

> ***Should we consider changes to require or encourage financial institutions, third parties, and other holders of consumer financial data to minimize data collection to only collection that is needed to effectuate a consumer transaction and place limits on the time-period for data retention?***

Congress must ensure that data minimization or deletion requirement does not interfere with the lending process, are compatible with existing data retention requirements and anti-fraud efforts, and do not inhibit financial institution's ability to defend themselves against litigation. To start, many nonbanks are already required to implement data minimization and data disposal programs as part of the Federal Trade Commission's Safeguards Rule.[4] As stated above, the origination process requires financial institutions to collect large amounts of consumer information. Additionally, financial institutions often retain consumer information for anti-fraud or cybersecurity purposes. Any data minimization requirements should not interfere with these processes.

Current law requires that financial institutions in the mortgage industry retain customer data for several years, which would be incompatible with data deletion requirements. The CFPB's Regulation Z under TILA requires mortgage loan creditors to retain evidence of compliance for three years. Additionally, Regulation Z provides a safe harbor and presumption of compliance for QM loans and allows for improper loan originator compensation claims to be brought as a defense to foreclosure, which could occur at any time over the course of a typical 30-year mortgage. A borrower challenging whether they had the Ability to Repay (ATR) is an additional defense at foreclosure, which requires entities to maintain sensitive information for the life of the loan. Any deletion requirements should recognize existing laws requiring data retention as well as data retention requirements from the housing Government Sponsored Enterprises ("GSEs"), Fannie Mae and Freddie Mac.

While MBA supports appropriate limits on the use and retention of data, these limitations must not interfere with the origination process or conflict with existing laws or practices. Any legislative changes must acknowledge that both as practice and as a legal requirement the mortgage industry must already collect large amounts of consumer data before lending decisions are made. Additionally, Congress should allow financial institutions to preserve consumer data when doing so is required by law, useful for anti-fraud or cybersecurity programs, or necessary for a legal defense.

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[3] MD COML § 14-4707(d)(4), CA Civ. Code § 1798.110(a)(4), 6 Del. C. § 12D-105(c)(5).
[4] 16 C.F.R. § 314.4(c).

Conclusion

Thank you in advance for your consideration of the views expressed within this letter. Notwithstanding the reservations and comments expressed, MBA stands ready to work with this Committee and its members, and all other committees with jurisdiction over this important topic, to help create a robust data privacy regime that works for both consumers and lenders. Our association stands ready and available to answer any questions you may have.

Sincerely,

Bill Killmer
Senior Vice President
Legislative and Political Affairs

cc: All Members, Committee on Financial Services, U.S. House of Representatives